

Message Text

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ACTION L-02

INFO OCT-01 ARA-06 ISO-00 EB-07 CIAE-00 DODE-00 PM-03 H-02

INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 COME-00 TRSE-00 OMB-01 AID-05 /064 W

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FM AMEMBASSY BRASILIA

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INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 5483

E.O.11652: GDS

TAGS: EINV, OAS, BR, US

SUBJECT: OAS RESOLUTION ON BRIBERY

REFS: A. STATE 148693 B. BRASILIA 4861 C. BRASILIA 5459

1. SUMMARY: THE GOB WILL NOT SUPPORT A RESOLUTION ON BRIBERY WHICH REFERS TO OBLIGATIONS OF GOVERNMENTS, AND IT IS CONCERNED THAT THE PENDING RESOLUTION OVERLY EMPHASIZES BRIBERY TO THE EXCLUSION OF OTHER TNE ISSUES MORE IMPORTANT OVER THE LONG RUN. THE GOB IS CONSIDERING WHETHER TO INSTRUCT ITS DELEGATION TO PROPOSE AMENDMENTS TO THE PENDING RESOLUTION WHICH WOULD BROADEN IT TO INCLUDE THESE OTHER ISSUES. IF ENOUGH OF ITS AMENDMENTS ARE ACCEPTED, THE GOB COULD SUPPORT THE RESOLUTION. END SUMMARY.

2. ECONOFF MET WITH FONMIN'S CHIEF OF OAS DIVISION, MONTEIRO LIMA, AND TRADE POLICY DIVISION OFFICER, CARLOS PARRANHOS, ON JULY 2 (EARLIER MEETING WAS NOT POSSIBLE) TO MAKE PRESENTATION IN REF A. HAVING READ MCNEIL'S STATEMENT TO THE PERMANENT COUNCIL, THEY WERE FAMILIAR WITH OUR BASIC VIEWPOINT. ECONOFF EMPHASIZED THE NEW ELEMENT OF A
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STEP-BY-STEP APPROACH.

3. FONMIN'S VIEW ON THE "EVEN-HANDED" ISSUE IS THAT THE OAS, AS AN INTERNATIONAL ORGANIZATION, SHOULD NOT MAKE RECOMMENDATIONS TO GOVERNMENTS WHEN THE OAS DELEGATES THEMSELVES ARE GOVERNMENT REPRESENTATIVES. THE ISSUE OF WHETHER SOMEONE OUGHT TO ACCEPT BRIBES, LIMA NOTED, IS A QUESTION TO BE DEALT WITH BY A COUNTRY'S INTERNAL LAWS AND PROCEDURES. PARRANHOS ADDED THAT THE RESOLUTION'S "SUPER-EMPHASIS" ON BRIBERY IMPLICITLY RECOGNIZES THE CONCEPT OF SHARED RESPONSIBILITY FOR IT.

4. FONMIN ALSO BELIEVES THAT THE PENDING RESOLUTION, FOCUSES TOO ANRROWLY ON BRIBERY TO THE EXCLUSION OF OTHER ISSUES MORE IMPORTANT OVER THE LONG RUN, E.G., RESTRICTIVE BUSINESS PRACTICES, TECHNOLOGY TRANSFER. LIMA SAID THAT THE FONMIN IS CONSIDERING WHETHER TO INSTRUCT ITS OAS DELEGATION TO SPONSOR AMENDMENTS TO BROADEN THE RESOLUTION TO INCLUDE THESE OTHER ISSUES, EVEN THOUGH THE GOB RECOGNIZES THAT IT IS THE BRIBERY ISSUE WHICH GAVE RISE TO THE CURRENT OAS DISCUSSION. HE NOTED, HOWEVER, THAT HE DID NOT KNOW WHETHER ANY INSTRUCTIONS WOULD REACH THE DELEGATION IN TIME. HE SAID THE GOB HAD NOT CONSULTED WITH OTHER GOVERNMENTS ON THESE PROPOSALS, BUT BRAZIL'S IDEAS ARE RATIOAL AND, THEREFORE, THE GOB WOULD EXPECT SOME SUPPORT FOR THEM. LIMA POINTED OUT THAT THE DELEGATION HAD NOT BEEN INSTRUCTED HOW TO VOTE ON THE PENDING RESOLUTION. HE ADDED THAT THE GOB MOGHT BE ABLE TO SUPPORT THE RESOLUTION IF ENOUGH OF BRAZIL'S AMENDMENTS ARE ACCEPTED.

5. THE FONMIN BELIEVES THAT THE PERMANENT COUNCIL SHOULD HANDLE THIS ISSUE, AND THAT IF ANY COMMITTEE OF EXPERTS IS CREATED, ITS ROLE SHOULD BE RESTRICTED TO ADVISING THE PEMANENT COUNCIL. LIMA SAID THE GOB DOES NOT WANT AN INDEPENDENT EXPERTS GROUP, LIKE THE UN GROUP OF EMINENT PERSONS OR THE NEW DIALOGUE'S WORKING GROUP ON TRANSNATIONAL ENTERPRISES. CONFIDENTIAL

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6. REGARDING A CODE OF CONDUCT, LIMA SAID THE GOB IS CONCERNED ABOUT DUPLICATING THE UN'S EFFORTS, BUT HIS GOVERNMENT'S POSITION IS FLEXIBLE. HE OBSERVED THAT SUCH A COURSE OF ACTION MAY COME ABOUT IN THE OAS, BUT BRAZIL WOULD NOT SEEK TO EXPAND THE CURRENT DISCUSSIONS TO CONSIDER A CODE OF CONDUCT.

7. COMMENT: WE SUSPECT THE GOB OPOSES AN "EVEN-HANDED" RESOLUTION FOR THREE REASONS:

-- CORRUPTION HAS NOT BEEN A MAJOR ISSUE HERE IN RECENT YEARS, AND THE GOB US MAY SEE AN OAS RECOMMENDATION ON GOVERNMENT OBLIGATIONS AS UNNEEDED AND UNHELPFUL:
-- AT A TIME WHEN THE GOB IS DISTRUBED WITH WHAT COULD TURN OUT TO BE THE MOST PUBLICIZED GOB/TNE ISSUE FOR SOME TIME -- THE NORTHROP DISCLOSURE, REF C-- SUCH AN OAS RESOLUTION WOULD BE ILL-TIMED TO AN EMBARRASSED GOVERNMENT:

-- FINALLY, MOST BRAZILIANS, INCLUDING THOSE IN OFFICIAL CIRCLES, SEEM TO VIEW CORPORATE BRIBERY AS SOMETHING INSTIGATED BY THE COMPANIES AND NOT BY GOVERNMENT OFFICIALS: HENCE, AT THIS POINT, THERE IS LITTLE POLITICAL SUPPORT WITHIN BRAZIL FOR INTERNATIONALLY-IMPOSED OBLIGATIONS ON THE GOB. IN WANTING TO BROADEN THEOAS RESOLUTION, THE GOB NOT ONLY WANTS TO DOWNPLAY BRIBERY BUT ALSO SEEKS TO HIGHLIGHT OTHER ISSUES, SUCH AS RESTRICTIVE BUSINESS PRACTICES AND TRANSFER PRICING PROBLEMS, WHICH HAS RECEIVED AGREAT DEAL OF PUBLICITY IN RECENT MONTHS, ESPECIALLY DUE TO THE HEARINGS OF THE COMMISSION OF PARLIAMENTARY INQUIRY ON MULTINATIONAL CORPORATIONS.
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